STATE OF MICHIGAN
IN THE SUPREME COURT

DEPARTMENT OF ENVIRONMENTAL QUALITY, a department in the Michigan Executive Branch and DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY,
Plaintiffs-Appellants

v.

TOWNSHIP OF WORTH,
Defendant-Appellee

S. Ct. Docket No. 141810

COA Docket No. 289724

LC Case No. 07-970-CE
Hon. Robert P. Young

/

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AMICUS CURIAE BRIEF OF THE GREAT LAKES ENVIRONMENTAL LAW CENTER

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STATEMENT OF JURISDICTION

Amicus Curiae Great Lakes Environmental Law Center relies upon the Statement of Jurisdiction as set forth in Plaintiff-Appellants' Brief on Appeal.

STATEMENT OF QUESTIONS PRESENTED

I. **Is Worth Township liable under NREPA for the sewage contamination of State Waters within its boundaries?**

Appellants' Answer: "Yes."

Appellee's Answer: "No."

Amicus Curiae's Answer: "Yes."

II. **Does NREPA give the DEQ authority to order Worth Township to take necessary corrective action to cease illegal sewerage discharges, and does the Circuit Court have authority to enforce the DEQ's order?**

Appellants' Answer: "Yes."

Appellee's Answer: "No."

Amicus Curiae's Answer: "Yes."

STATEMENT OF PROCEEDINGS AND FACTS

Amicus Curiae the Great Lakes Environmental Law Center relies upon the Statement of Proceedings and Facts as set forth in Plaintiffs-Appellants' Brief on Appeal. The Great Lakes Environmental Law Center now files this Amicus Brief in support of Plaintiffs-Appellants' Brief on Appeal.

INTEREST OF AMICUS CURIAE

The **Great Lakes Environmental Law Center** (GLELC) is a Michigan nonprofit organization founded to protect the world's greatest freshwater resource and the communities that depend on it. Based in Detroit, the GLELC has a board and staff of dedicated and innovative environmental attorneys to address our most pressing environmental challenges. The GLELC was also founded on the idea that law students can and must play a significant role in shaping the future of environmental law. The GLELC works in all three branches of government to promote the conservation, protection, and wise use of Michigan's water resources.

The GLELC is concerned that the outcome of this appeal could have significant impacts on Lake Huron, the Great Lakes, and the waters and natural resources of Michigan. The GLELC has an interest in how the responsibility to remedy sewage problems is allocated under the Natural Resources and Environmental Protection Act (NREPA), and believes that this amicus curiae brief will aid the Court in weighing the legal issues.

INTRODUCTION

The Great Lakes are a natural treasure to Michigan and the world, collectively consisting of one-fifth of the world's surface fresh water.[1] The Great Lakes are an essential part of Michigan's ecology and economy. They are an international vacation destination and a source of great pride for Michigan's residents. For these reasons, and countless more, protecting the Great Lakes is of the utmost importance.

Amicus Curiae submits this brief to address the following legal issues in the order granting leave: (1) whether Worth Township is liable under the Natural Resources and Environmental Protection Act (NREPA) for a widespread failure of private septic systems within its borders that results in contamination of Lake Huron; (2) whether NREPA authorizes the DEQ to order Worth Township to take necessary corrective action to cease illegal sewerage discharges, and whether the Circuit Court has authority to enforce the order.

(1) Worth Township is Liable under NREPA for the Sewage Contamination of Lake Huron.

Part 31 of NREPA prohibits the discharge of injurious substances into state waters.[2] Discharge of raw human sewage is prima facie evidence of a Part 31 violation by the municipality where the discharge originated.[3] A township qualifies as a municipality under NREPA.[4] As Worth Township itself conceded, the septic systems within its borders are failing, causing sewage to discharge into Lake Huron waters.[5] Therefore, the township is responsible under NREPA for the direct discharge of raw human sewage within its borders. MCL 324.3109(2) creates a presumption that a municipality violates NREPA if raw sewage is

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[1] Michigan Department of Environmental Quality, http://www.michigan.gov/deq/0,1607,7-135-3313_3677---,00.html (last visited Jun. 7, 2011).
[2] MCL 324.3109(1).
[3] MCL 324.3109(2).
[4] MCL 324.3101(m).
[5] *Department of Envtl. Quality v. Twp. of Worth.*, 289 Mich. App. 414, 425-26; ___ N.W.2d ___ (2010) (O'Connell, J., dissenting).

discharged into state waters within municipal boundaries, even if the municipality does not directly own or operate the sewerage system. However, the Court of Appeals incorrectly applied the presumption as to whether the municipality owns or operates the source of the discharge.

(2) NREPA Grants the DEQ Authority to Order Worth Township to Take Necessary Corrective Action to Cease the Illegal Sewerage Discharges, and Grants the Circuit Court Authority to Enforce the DEQ's Order.

Part 31 grants the DEQ broad authority to "take all appropriate steps to prevent any pollution [it] considers to be unreasonable and against public interest in...any...waters of the state."[6] This authority includes the power to "issue orders restricting the polluting content of any waste material...discharged...into any...waters of the state."[7] The DEQ's order, instructing the township to take necessary action to stop the sewerage discharges occurring within its borders, clearly fits within that authority.

The Circuit Court has the authority to enforce the DEQ's order. NREPA explicitly grants such authority. The DEQ "may request the attorney general to commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation... or order issued[.]"[8] Independently of NREPA, Michigan courts also have the power to force local governments to correct sewerage discharge problems.[9] In *People ex rel Stream Control Comm'n*, the Michigan Supreme Court held that, under common law, it had injunctive authority to force the City of Port Huron to comply with a Department of Health order to construct a public sewerage system.[10] In this case, the DEQ does not even seek such specified relief, but rather orders the township take whatever action is necessary to address the illegal sewerage discharges.

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[6] MCL 324.3106.
[7] *Id.*
[8] MCL 324.3115.
[9] *People ex rel Stream Control Comm'n v. City of Port Huron*, 305 Mich. 153, 157-58; 9 N.W.2d 41 (1943).
[10] *Id.* at 157-58.

ARGUMENT

I. The Court of Appeals erred in finding Worth Township not responsible for the discharge of sewage into state waters within its borders. The township, as a municipality under NREPA, is liable for the sewage discharge, because, under NREPA, discharge of raw human sewage constitutes prima facie evidence of a violation by the municipality where the discharge originated.

A. Standard of review

The proper standard of review for matters of statutory interpretation is de novo.[11]

B. Worth Township is responsible under Part 31 of NREPA for the sewage discharge.

At issue is whether Part 31 of the Natural Resources and Environmental Protection Act (NREPA) assigns responsibility to Worth Township for the discharge of sewage within its borders. MCL 325.3109 (2) creates a presumption of evidence of a violation to any municipality in which sewage is discharged.[12] The statute reads as follows:

> (1) A person shall not directly or indirectly discharge into the waters of the state a substance that is or may become injurious to any of the following:
>
> (a) To the public health, safety, or welfare.
>
> (b) To domestic, commercial, industrial, agricultural, recreational, or other uses that are being made or may be made of such waters.
>
> (c) To the value or utility of riparian lands.
>
> (d) To livestock, wild animals, birds, fish, aquatic life, or plants or to their growth or propagation.
>
> (e) To the value of fish and game.
>
> (2) The discharge of any raw sewage of human origin, directly or indirectly, into any of the waters of the state shall be considered prima facie evidence of a violation of this part by the municipality in which the discharge originated unless the discharge is permitted by an order or rule of the department. If the discharge is not the subject of a valid permit issued by the department, a municipality responsible for the discharge may be subject to the remedies provided in section 3115. If the discharge is the subject of a valid permit issued by the department pursuant to section 3112 and is in violation of that permit, a municipality

[11] *Bush v. Shabahang*, 484 Mich. 156, 164; 772 N.W.2d 272 (2009).

[12] MCL 324.3109(2). *See also People v. Kircher*, unpublished order of the Court of Appeals, entered Aug. 14, 2008, Docket No. 275215, at 3 ("Although MCL 324.3109(2) specifically identifies that discharge of raw sewage into state waters is prima facie evidence of a violation, the plain language of the statute reveals that this presumption applies to municipalities.").

responsible for the discharge is subject to the penalties prescribed in section 3115.

> (3) Notwithstanding subsection (2), a municipality is not responsible or subject to the remedies provided in section 3115 for an unauthorized discharge from a sewerage system as defined in section 4101 that is permitted under this part and owned by a party other than the municipality, unless the municipality has accepted responsibility in writing for the sewerage system and, with respect to the civil fine and penalty under section 3115, the municipality has been notified in writing by the department of its responsibility for the sewerage system.

MCL 324.3109. The correct reading of subsection (2), as noted in Justice O'Connell's dissent, is to apply the presumption to whether the statute is violated at the outset.[13] If sewage is discharged into state waters, the discharge is presumed to be injurious under subsection (2). The Court of Appeals majority, however, instead applies the presumption to whether the municipality is responsible for the discharge.[14]

Justice O'Connell's reading of the presumption is correct for three reasons; (1) it is the most natural reading, in terms of statutory language and structure; (2) it comports most closely with NREPA's purpose and scope; and (3) from a prudential and historical standpoint, it makes the most sense to read the statute to impose responsibility on a township for sewage discharges, even when the township does not own or operate the sewerage system.

In terms of statutory language and structure, other provisions of MCL 324.3109 suggest that the presumption created by subsection (2) applies to whether injurious substances have been discharged into state waters, not whether the municipality is responsible for the violation. Subsections (4), (5), and (6) each give other situations where certain discharges into state waters are considered prima facie evidence of a violation. For instance, subsection (4) lists the discharge of medical waste into state waters as prima facie evidence of a violation. Because these subsequent subsections impose prima facie evidence of a violation, it is reasonable to read

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[13] *Twp. of Worth.*, 289 Mich. App. at 441-42; ___ N.W.2d ___ (2010) (O'Connell, J., dissenting). *See also Kircher*, Docket No. 275215, at 3.
[14] *Id.* at 422-23.

subsection (2) as imposing prima facie evidence of a violation to the municipality when human sewage is discharged. The statute puts the burden on responsible parties to rebut the presumption of their responsibility.

Conversely, the Majority's reading of the statute goes against the statutory language and structure.[15] If a municipality actually operated a sewer system that endangered public health, then it would already be liable under subsection (1).[16] Therefore, subsection (2) should have the different purpose of imposing vicarious liability on municipalities that do not directly own or operate sewer systems.[17] Yet the Majority instead reads the subsection to apply to the same circumstance as in subsection (1), relegating subsection (2) to surplusage. The legislature would not have created subsection (2) if its scope had already been covered in subsection (1). Nor is it sensible to read subsection (2) not to impose vicarious liability, when the adjacent subsections (4), (5), and (6), which contain similar language, clearly impose vicarious liability to relevant parties.

Justice O'Connell's reading of the statute also comports most closely to NREPA's purpose and scope of wide-ranging environmental protection. The language of Part 31 clearly grants the DEQ expansive authority to prevent water pollution, including regulation of discharges, setting of water pollution standards, and issuance of permits.[18] NREPA's scope is expansive, not restrictive.[19] For example, Part 31 gives the DEQ broad authority to "take all appropriate steps to prevent any pollution the department considers to be unreasonable and

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[15] The majority's reading also goes against the prior Court of Appeals decision in *Kircher*, Docket No. 275215, at 3.
[16] MCL 324.3109(1) assigns liability to "any person" that operates a sewage system that discharges into state waters. "Any person includes such "a governmental entity" as a township. MCL 324.301.
[17] *Twp. of Worth.*, 289 Mich. App. at 441-42 (O'Connell, J., dissenting).
[18] MCL 324.3103(1); MCL 324.3106; MCL 324.3112(1).
[19] *See, e.g., City of Brighton v. Twp. of Hamburg*, 260 Mich. App. 345, 356, 677 N.W.2d 349 (2004) ("Consistently with the fact that our state's waters are connected and flow through many and varied localities, the Legislature invested in one agency, the DEQ, the public trust of protecting "*all*" our state's waters, which protection can only be accomplished by a statewide, consistent, and coherent uniform policy."); *see also* MCL 324.3103(1); MCL 324.3106; MCL 324.3112(1).

against public interest in view of the existing conditions in any...waters of the state."[20] Furthermore, the DEQ may "promulgate rules *and take other actions* [italics added] as may be necessary to comply with the federal water pollution control act, ...and to expend funds available under such law for extension or improvement of the state or interstate program for prevention and control of water pollution."[21] Signing a district compliance agreement to hold a township responsible for the sewerage system clearly fits within this broad authority. Ruling otherwise would allow small governmental units to reject DEQ efforts to regulate pollution, creating a patchwork system that does not comport with the legislative goal of broad DEQ environmental authority.[22] This would also go against the Michigan legislature's constitutional mandate to protect the environment, a mandate from which NREPA originates.[23] The presumption of municipal liability in MCL 324.3109(2) must be read in context of NREPA's broader purpose to impose a sweeping array of environmental protections. In this context, it makes perfect sense to interpret subsection (2) expansively.

Finally, from both a prudential and historical standpoint, the township is the most practical entity to hold responsible for this sewage problem.[24] Because townships and other small

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[20] MCL 324.3106.

[21] MCL 324.3103(3) (emphasis added).

[22] See, e.g., *City of Brighton*, 260 Mich. App. at 355 ("control of pollution entering the state's inter-connected waterways, clearly calls for a statewide, uniform system of regulation. The state's ability to control water pollution statewide would be substantially undermined by a Balkanized patchwork of inconsistent local regulations").

[23] Const. 1963 art. 4, §52 states that "[t]he conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction."

[24] The township, on page five of its brief to the Michigan Supreme Court, argues against this interpretation of NREPA on prudential grounds, warning that *one* small discharge of human sewage from *one* private septic tank would be enough for the DEQ to judicially mandate the municipality construct of a local sewerage system. This concern is unwarranted. NREPA already prohibits private parties from illegally discharging sewerage, and the DEQ would more efficiently deal with the problem on an individual level under MCL 324.3112a, rather than by attempting to force a municipal-wide corrective action. Furthermore, Part 31 of NREPA gives the DEQ power to take "appropriate steps" to prevent pollution. In Worth Township's case, a public sewerage system may be appropriate to address the systemic, widespread existing sewerage problem, but it would not be appropriate for one small private sewerage discharge. Finally, even if the DEQ ordered a municipality to take corrective action against a

units of government are closest and most directly accountable to their populations, they possess the best information and resources to deal with local sewage issues.[25] Local governments have the power to issue condemnations and adopt local health ordinances.[26] For these reasons, Michigan legislation has, for over forty years, placed responsibility for sewerage systems in the hands of local government.[27] In fact, NREPA's predecessor statute clearly puts vicarious liability on the township for private sewage systems.[28] NREPA is an expansion of the predecessor statute, the Water Resources Commission Act.[29] Therefore, it is logical to infer that the legislature did not intend to break the longstanding system of township responsibility, especially when the statutory language does not indicate such a historic break.

Under the plain reading of MCL 324.3109(2), there is a presumption of a violation to the municipality where raw human sewage is discharged. Under such a presumption, Worth Township is liable. Raw human sewage has been continuously and directly discharged into state waters. The township contests that the sewage is not conclusively proven to be human, but the record indicates that township officials knew for years of serious and widespread sewage leaks from the local private septic systems.[30] Also, township environmental officials directly evaluated

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small private sewerage discharge in this circumstance, the municipality could address the problem through its own powers of zoning or condemnation.

[25] *See, e.g.*, Lake *Isabella Dev, Inc. v Vill. of Lake Isabella*, 259 Mich. App. 393, 414; 675 N.W.2d 40 (2003) (O'Connell, J., dissenting).

[26] *Twp. of Worth*, 289 Mich. App. at 430 (O'Connell, J., dissenting).

[27] *Lake Isabella Dev, Inc* at 414 (2003) (O'Connell, J., dissenting).

[28] MCL 323.6(b). "The discharge of any raw sewage of human origin, directly or indirectly into any of the waters of the state shall be considered prima facie evidence of the violation of [MCL 323.6(a)] unless said discharge shall have been permitted by an order, rule, or regulation of the commission. Any city, village or township which permits, allows or suffers the discharge of such raw sewage of human origin into any of the waters of the state by any of its inhabitants or persons occupying lands from which said raw sewage originates, shall be subject...to the remedies provided for in...this act."

[29] See *Twp. of Worth*, 289 Mich. App. at 438 (O'Connell, J., dissenting). Former MCL 323.6(b) stated: "[a]ny city, village or township which permits, allows or suffers the discharge of... raw sewage of human origin into any of the waters of the state by any of its inhabitants or persons occupying lands from which said raw sewage originates, shall be subject... to... remedies[.]

[30] The former township supervisor and zoning administrator had been getting complaints for years about septic tank leaks. *Id.* at 431-32 (O'Connell, J., dissenting).

hundreds of septic systems and found a great majority of them in a state of failure.[31] Even the township itself, in its district compliance agreement signed in 2004, acknowledged the problem of human sewage discharges from septic systems.[32] The evidence that this sewage was of human origin is overwhelming.[33]

While MCL 324.3109(3) can provide an exception to the presumption in subsection (2), the township does not meet this exception. Subsection (3) applies to sewerage systems in the municipality that are privately owned or operated. In this case, no sewerage system, as defined by MCL 324.4101(h), exists in the township, but rather a series of private septic systems.[34] For that reason, the township had previously agreed, in the district compliance agreement, to build a public sewer system.[35] Because no such sewerage system exists in the township, subsection (3) does not apply.

a. Worth Township constitutes a municipality under NREPA.

The next question is whether Worth Township fits into the statutory definition of a municipality. NREPA Part 31 defines a municipality as "this state, a county, city, village, or *township* [italics added], or an agency or instrumentality of any of these entities."[36] The township clearly fits into this definition. Therefore, it is liable for the discharge under MCL 324.3109(2).

The Court of Appeals majority implies that the DEQ should not be able to sue the township because the DEQ itself may fit into the definition of a municipality.[37] Even if this is true, it does not preclude the DEQ from bringing suit against an entity that clearly fits into the

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[31] *Id.* at 432-33 (O'Connell, J., dissenting).
[32] *Id.*
[33] *Id.* at 435 (O'Connell, J., dissenting).
[34] MCL 324.4101(h) requires a sewerage system be "actually used or intended for use by the public." No such public system exists in Worth Township. Each household has a private, individual septic system, intended for use by private individuals.
[35] *Twp. of Worth,* 289 Mich. App. at 426 (O'Connell, J., dissenting).
[36] MCL 324.3101(m).
[37] *Twp. of Worth,* 289 Mich. App. at 422-23.

definition of a municipality. NREPA does not set forth guidelines on how liability should be apportioned between multiple municipal entities.[38] The statute leaves space for entities to agree between each other how to apportion liability. The township is the responsible unit of government. In 2004, the township entered into a district compliance agreement to construct a public sewerage system.[39] Also, the township's longstanding role is one of direct local accountability to its constituents, and its ability to issue public health ordinances and condemnations puts it in the primary position to deal with local sewerage issues.[40] If the township wanted to sue the state of Michigan or DEQ in an attempt to apportion liability under NREPA, it could have brought a counterclaim against the plaintiffs.

II. Part 31 of NREPA gives the DEQ authority to order Worth Township to take corrective action to cease illegal sewerage discharges, and the Circuit Court has the power to enforce the order.

Because Worth Township is responsible for the sewage discharge under Part 31, the DEQ has authority to force the township to take necessary corrective action. Part 31 grants the DEQ broad enforcement authority to "take all appropriate steps to prevent any pollution [it] considers to be unreasonable and against public interest in...any...waters of the state."[41] This includes the power to issue injunctive orders.[42]

It is important to note that the DEQ sought an injunction to take necessary corrective action only after years of bilateral negotiations with the township had failed to remedy the discharge violations.[43] The township had already agreed to construct a sewerage system in the

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[38] MCL 324.3109.
[39] *Twp. of Worth*, 289 Mich. App. at 426 (O'Connell, J., dissenting).
[40] *See, e.g.*, Lake *Isabella Dev, Inc.*, 259 Mich. App. at 414 (O'Connell, J., dissenting).
[41] MCL 324.3106.
[42] *Id.* "The department may promulgate rules and issue orders restricting the polluting content of any waste material or polluting substance discharged or sought to be discharged into any lake, river, stream, or other waters of the state." *See also City of Brighton*, 260 Mich. App. at 354-55.
[43] *Twp. of Worth*, 289 Mich. App. at 425-27 (O'Connell, J., dissenting).

2004 district compliance agreement between the parties, and failed to adhere to this agreement.[44] Because of the bilateral, public nature of these proceedings, among other reasons, the DEQ's actions do not violate the Headlee Amendment.[45]

Also, constructing a public sewerage system was not necessarily the only corrective action the township could have taken. Townships have the power to regulate land through zoning ordinances in order to promote "public health, safety, and welfare[,]" something which clearly encompasses regulation of illegal sewerage discharges.[46] Townships also have the power to condemn private property.[47] The township could have used these methods to compel the individual property owners to remedy the NREPA violations.[48] Because many of the plots of land are directly on the shore of Lake Huron, however, the law may prevent the individual land owners from building a new septic system so close to the water.[49] However, the township made no indication of any serious attempt to correct the problem.

Furthermore, the Circuit Court has clear authority to enforce the DEQ's order. NREPA explicitly grants the DEQ authority to "request the attorney general to commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation... or order

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[44] Notably, this agreement was signed after extensive discussion between the DEQ and Worth Township Board, at open public meetings. *Twp. of Worth,* 289 Mich. App. at 435 (O'Connell, J., dissenting).

[45] The township argues that the DEQ cannot order it to construct a sewerage system, because the Headlee Amendment, Const. 1963 art. 9, §29, requires a state-ordered local government activity to be funded by the state. This argument, however, has no merit. First, the alleged Headlee Amendment violation is beyond the scope of the issue on appeal. Second, the DEQ ordered the township to take necessary action to address NREPA violations, for which the DEQ holds the township responsible, only after years of bilateral negotiations. The township's district compliance agreement to construct a public sewerage system was signed voluntarily between the parties in 2004. The township violated this agreement. Third, independently of the district compliance agreement, the township had several methods by which to address the problem, discussed in this brief. Finally, even on the argument's merits, the Headlee Amendment only prohibits non-state funded orders that are "beyond that required by existing law." Because the township is responsible for the sewerage discharges under MCL 324.3109(2), its corrective actions are "required by existing law," and thus the Headlee Amendment is not violated.

[46] MCL 125.3201(1).

[47] MCL 41.411.

[48] If the township had taken these actions, the individual property owners' septic systems would have had to comply with the isolation distance requirements set out in MCL 324.11710.

[49] Michigan law states that septic systems must be between 150 to 2,000 feet away from the water, depending on the type of system. MCL 324.11710.

issued[.]"[50] Any municipality responsible for discharging sewage into state waters is subject to this provision.[51]

Independently of NREPA, Michigan courts have long possessed the common law power to force local governments to stop sewerage discharges, even when this meant constructing a new sewerage system.[52] In *People ex rel Stream Control Comm'n*, the City of Port Huron failed to comply with a Michigan Department of Health order to construct a public sewerage system, causing raw sewage to discharge into state waters.[53] Citing public health of residents and tourists as a major concern, the Supreme Court rejected a balancing test approach and ordered the city to construct the sewerage system.[54] The city's purported financial inability to construct the project was not a valid defense.[55]

Like the City of Port Huron in the analogous *People ex rel Stream Control Comm'n*, Worth Township failed to adhere to an agency order to take corrective action to cease illegal sewerage discharges, likely due in part to a purported financial inability to pay for it. As a result, raw sewage was discharged into state waters. In Worth Township's case, the DEQ did not even order the construction of a sewerage system, but rather a more general order to take necessary corrective action to correct the illegal sewerage discharges.[56] This case falls soundly within the *People ex rel Stream Control Commission* holding, allowing the court to order Worth Township take necessary action.

As demonstrated, Worth Township is responsible for the sewage discharge and is therefore subject to both a DEQ order and an injunctive court order to take remedial action.

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[50] MCL 324.3115.
[51] MCL 3109(2).
[52] *People ex rel Stream Control Comm'n v. City of Port Huron*, 305 Mich. 153, 157; 9 N.W.2d 41 (1943).
[53] Id. at 155.
[54] Id. at 157-58.
[55] *Id.* at 158-59.
[56] *Twp. of Worth*, Plaintiff-Appellants' brief, No. 289724, 2009 WL 6842268, 27.

CONCLUSION AND RELIEF REQUESTED

For the reasons stated above, Amicus Curiae respectfully request that the Court grant the following relief:

(1) Reverse the Court of Appeals' holding that NREPA does not grant the DEQ authority to order Worth Township to take necessary corrective action to cease illegal sewerage discharges within its boundaries.

(2) Allow the Circuit Court to enforce the DEQ's order that the township take necessary corrective action.

Respectfully submitted

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